IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 4283 of 2005

Between:

Syed Sultan Hashim S/o Syed Mashood Hashmi
Owner of the AUTO Bearing No. AP-9W-6930, R/o 8-3-228/678/1630/A, Sriram Nagar, Yousufguda, Hyderabad

..... PETITIONER

AND

1. Deputy Commissioner of Prohibition & Excise, Hyderabad Division, Opp Exhibition Grounds, JN. Road at Nampally, Hyderabad
2 The Sub Inspector of Police, (SHO)P.S. Jeedimetla at Jeedimetla, Ranga Reddy District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandmaus declaring the proceedings vide Cr. No. C6/3762 of 2002, dt 6-2-2005 passed by the 1st respondent in COR/FIR No. 265/2002 of the 2nd respondent as illegal in respect of petitioner auto bearing No. AP-9W-6930 and pass such other order or orders which are necessary in the interest of justice.

Counsel for the Petitioner: MR.B.SAI RAM GOUD

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Petitioner challenges the proceedings dated 6-2-2005 issued by the first respondent in COR/FIR No. 265 of 2002, rejecting his application, seeking interim custody of the Auto bearing No. AP 9W 6930.

Record reveals that initially the vehicle in question was given to the petitioner towards interim custody on furnishing F.D.R. worth of Rs.11,125/- besides surety given by a Government servant for Rs.33,375/-, pending finalisation of the proceedings before the first respondent herein. Subsequently, the first respondent passed the impugned proceedings confiscating the auto to the State.

It is not in dispute that an appeal is pending before the first respondent and the vehicle, which was seized was already released to the petitioner and presently it is in the custody of the petitioner. It is also not in dispute that the bank guarantee furnished by the petitioner some time back is also subsisting as on today.

Having regard to the facts and circumstances of the case, I deem it

appropriate to direct the first respondent to accept the bank guarantee furnished by the petitioner if the same is still in subsistence, instead of seizing the vehicle pending disposal of the appeal and complete the enquiry. However, it is made clear that the vehicle shall not be alienated in favour of others and the same shall be produced before the authorities concerned as and when required.

With the above directions, the writ petition is disposed of at the stage of admission. No costs.

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kvsn 16-03-2005

To

1. Deputy Commissioner of Prohibition & Excise, Hyderabad Division, Opp Exhibition Grounds, JN. Road at Nampally, Hyderabad

2 The Sub Inspector of Police, (SHO)P.S. Jeedimetla at Jeedimetla, Ranga Reddy District

3 Two CCs to GP for Excise, High Court buildings, Hyderabad.

4 2 CD copies